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DEPARTMENT OF COMMERCE

International Trade Administration

(A-533-861)

Certain Polyethylene Terephthalate Resin from India: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective Date: **INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER**.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that certain polyethylene terephthalate resin (PET resin) products from India are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The period of investigation is January 1, 2014, through December 31, 2014. The estimated weighted-average dumping margins are shown in the “Preliminary Determination” section of this notice. Interested parties are invited to comment on this preliminary determination.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2924 or (202) 482-0649.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on April 6, 2015.¹ Pursuant to section 733(c)(1)(A) of the Act, the Department postponed this preliminary LTFV determination by 50 days until October 6, 2015.²

Scope of the Investigation

The merchandise covered by these investigations is polyethylene terephthalate (PET) resin

The merchandise subject to these investigations is properly classified under subheading 3907.60.00.30 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

For a full description of the scope of the investigation, *see* the Preliminary Decision Memorandum, hereby adopted by this notice.³ The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and is available to all parties in the Department's Central Records Unit, room B8024 of the main Department of Commerce

¹ *See Certain Polyethylene Terephthalate Resin From Canada, the People's Republic of China, India, and the Sultanate of Oman: Initiation of Less-Than-Fair-Value Investigations*, 80 FR 18376 (April 6, 2015) (*Initiation Notice*).

² *See Certain Polyethylene Terephthalate Resin from Canada, the People's Republic of China, India, and the Sultanate of Oman: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 80 FR 45640 (July 31, 2015).

³ *See* Memorandum from Christian Marsh, Deputy Assistant Secretary, Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary, Enforcement and Compliance "Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Certain Polyethylene Terephthalate Resin from India," (Preliminary Decision Memorandum) dated concurrently with and hereby adopted by this notice. A list of the topics discussed in the Preliminary Decision Memorandum appears in the Appendix below.

building. In addition, a complete version of the Preliminary Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope Comments

The *Initiation Notice* provided interested parties an opportunity to raise issues regarding product coverage (scope). However, no party to the proceeding provided scope comments.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Export price (EP) has been calculated in accordance with section 772 of the Act. Normal value (NV) has been calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances

On July 16, 2015, petitioners filed a timely critical circumstances allegation, pursuant to section 773(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of the merchandise under consideration.⁴ In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary finding whether there is a reasonable basis to believe or suspect that critical circumstances exist no later than the date of the preliminary determination. We have conducted an analysis of critical circumstances in accordance with section 733(c) of the Act and 19 CFR 351.206, and preliminarily determine that: (1) There is a history of dumping and material injury by reason of

⁴ See letter from Petitioners, "Certain Polyethylene Terephthalate Resin - Critical Circumstances Allegation," date July 16, 2015.

dumped imports in the United States or elsewhere of the subject merchandise in accordance with section 733(e)(1)(A)(i) of the Act; and (2) imports of the subject merchandise have been massive over a relatively short period in accordance with section 733(e)(1)(B) of the Act. Therefore, we preliminarily determine that critical circumstances exist. For a full description of the methodology and results of our analysis, *see* the Preliminary Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or de minimis margins, and margins determined entirely under section 776 of the Act. In this investigation, we calculated weighted-average dumping margins for both mandatory respondents that are above de minimis and which are not based on section 776 of the Act. However, because there are only two relevant weighted-average dumping margins for this final determination, using a weighted-average of these two rates risks disclosure of business proprietary data. Therefore, the Department assigned a margin to the all-others rate companies based on the simple average of the two mandatory respondents' rates.

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist during the period January 1, 2014, through December 31, 2014:

Producer or Exporter	Weighted-Average Dumping Margin (Percent)
Dhunseri Petrochem, Ltd.	19.41
Ester Industries, Ltd.	10.68
JBF Industries, Ltd.	19.41
Reliance Industries, Ltd.	6.31
All Others	8.50

Disclosure and Public Comment

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the preliminary determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for submitting case briefs.⁵ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. All documents must be filed electronically using ACCESS. An electronically filed request must be received successfully in its entirety by ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.⁶ Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

⁵ See 19 CFR 351.309(c); *see also* 19 CFR 351.303 (for general filing requirements).

⁶ See 19 CFR 351.310(c).

Verification

As provided in section 782(i)(1) of the Act, the Department intends to verify the information submitted by Ester and Reliance prior to making a final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of PET resin from India as described in the “Scope of the Investigation” section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), we will instruct CBP to require a cash deposit⁷ equal to the weighted-average amount by which the NV exceeds EP as indicated in the chart above, adjusted where appropriate for export subsidies.⁸ These suspension of liquidation instructions will remain in effect until further notice.

Pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), we will instruct CBP to require a cash deposit⁹ equal to the weighted-average amount by which NV exceeds EP, as indicated in the chart above, as follows: (1) The rate for Dhunseri, when adjusted for export subsidies, is 14.28 percent; (2) the rate for Ester, when adjusted for export subsidies, is 5.55 percent; (3) the rate for JBF, when adjusted for export subsidies, is 0.00 percent; (4) the rate for Reliance, when adjusted for export subsidies, is 1.18, (5) if the exporter is not a firm identified in

⁷ See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

⁸ See section 772(c)(1)(C) of the Act. Unlike in administrative reviews, the Department calculates the adjustment for export subsidies in investigations not in the margin calculation program, but in the cash deposit instructions issued to CBP. See *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

⁹ See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

this investigation, but the producer is, then the rate will be the rate established for the producer of the subject merchandise; (6) the rate for all other producers or exporters, when adjusted for export subsidies, will be 3.37 percent. These suspension of liquidation instructions will remain in effect until further notice.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. As described above, we preliminarily find that critical circumstances exist for imports produced or exported by all Indian exporters. Therefore, in accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

Reliance requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days (*i.e.*, to 135 days after publication of the preliminary determination) pursuant to section 735(a)(2)(A) and 19 CFR 351.210(b)(2)(ii), and agreed to extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2), from a four-month period to a period not to exceed six months.¹⁰

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), because (1) our preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.¹¹ The suspension of liquidation described above will be extended accordingly.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our preliminary affirmative determination of sales at LTFV. Because the preliminary determination in this proceeding is affirmative, section 735(b)(2) of the Act requires that the ITC make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of PET resin from India before the later of 120 days after the date of this preliminary determination or 45 days after our final determination. Because we are postponing the deadline for our final determination to 135 days from the date of

¹⁰ See letter from Reliance dated September 24, 2015.

¹¹ See 19 CFR 351.210(e).

publication of this preliminary determination, as discussed above, the ITC will make its final determination no later than 45 days after our final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: October 6, 2015.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

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